

## CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES COMMITTEE

Committee Meets in November...The committee met in Helena on Nov. 16. Representatives of the Department of Public Health and Human Services discussed the responsibilities of the Quality Assurance Division, the Health Policy and Services Division, and the Child and Family Services Division. The committee also looked into the ramifications of the reductions in children's services in mental health and child protective services. The committee has also requested that the Law and Justice Interim Affairs Committee review the reorganization of healthcare services in the correctional facilities administered by the Department of Corrections. Because of limited resources and time, the committee has decided not to undertake the SJR 8 study on the privatization of foster care and adoptive services.

Next Meeting in February...The committee will meet Feb. 12 and 13 in Helena, and will review the Child Support Enforcement Division, Disability Services Division, and Operations and Technology Division. The special topic will be tribal issues such as welfare reform, budget reductions, and cooperative agreements, and the government-to-government relations between the tribes and the DPHHS.

If you would like to be on the interested persons list, please contact Susan Byorth Fox, Research Analyst, Legislative Services Division, at (406) 444-3597 or by e-mail [sfox@mt.gov](mailto:sfox@mt.gov).

## DISTRICTING AND APPORTIONMENT COMMISSION

First Round of Public Hearings...The first public hearings on proposed regional plans for new legislative districts for northcentral and central Montana were held November 13 in Great Falls and November 14 in Browning. The northcentral region includes Glacier, Pondera, Toole, Liberty, Hill, Blaine, Teton, Chouteau, Cascade, Judith Basin, Fergus, and Petroleum counties.

The commission will hold public hearings on Jan. 16 in Havre, Jan. 17 in Glasgow, Feb. 19 in Miles City, and Feb. 20 in Lewistown. Details of the hearings will be noticed in advance of the meetings. Regional maps and descriptions and staff analysis will be sent to clerk and recorders, central committees, and legislators in the affected regions. Maps will be available on the commission's website.

Written testimony on the proposed plans for the northcentral and northeast regions will be accepted for three weeks following the public hearing; please send any written testimony c/o Susan Fox at the Legislative Services Division (see the address below). She will distribute the information to all commissioners. The commission will not make any decisions on plans until after written testimony is received.

Staff will visit the southeast region in December and January. For more information or to be placed on the commission's interested persons list, please contact

# THE INTERIM

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## ELECTRONIC DISTRIBUTION OF COMMITTEE INFORMATION AVAILABLE

In an effort to provide information in a more timely fashion and decrease costs, the Legislative Services Division is asking interested persons if they would like to receive interim committee information electronically. Interim committee publications would be sent in a PDF format via e-mail instead of sending a hard copy through regular mail.

Since the undertaking of this effort, the response has been extremely positive, with approximately 30% of interested persons contacted stating that they would like to receive information electronically. The following committees are currently participating in the "e-mailing":

- Economic Affairs Interim Committee
- Education and Local Government Interim Committee
- Children, Families, Health and Human Services Interim Committee
- Law and Justice Interim Committee
- Revenue and Transportation Interim Committee
- State Administration and Veterans Affairs Interim Committee
- State/Tribal Relations Interim Committee
- Electric Utility Transition Advisory Committee
- Districting and Apportionment Commission
- Legislative Council

If you prefer to receive information electronically for one or more of these committees, please contact Miko Owa, Legislative Services Division, and provide her with your name, telephone number, e-mail address, and committee name. Ms. Owa can be reached by phone at (406) 444-3073 or by e-mail at [mowa@mt.gov](mailto:mowa@mt.gov). Committee minutes, agendas, and publications as well as **THE INTERIM** may also be found on the legislative branch home page (<http://www.leg.mt.gov>).

Susan Byorth Fox, Legislative Services Division, P.O. Box 201706, Helena MT 59620, (406) 444-3597, or sfox@mt.gov.

## TRANSITION ADVISORY COMMITTEE

Committee Meets in November...The Transition Advisory Committee met Nov. 16 in Helena. The committee reviewed proposed electrical energy generation projects and the Montana Power Co. default supply portfolio and tentatively adopted a work plan for the rest of the interim.

Proposed Energy Generation Projects...Representatives of four different electrical energy concerns described the progress of their respective electrical energy generation projects. Dan Rapkoch, Continental Energy, discussed the Silver Bow Energy project. It will be a 500 megawatt combined cycle natural gas-fired power plant, located in the Silicon Mountain industrial park west of Butte. It would be a base-load unit intended primarily for Montana customers, with excess power sold out-of-state. The price of electricity would be cost-based, including a reasonable rate of return. Pending completion of an environmental impact statement, construction would begin in the fall 2002. The construction phase would employ 700 workers. Commercial generation of electricity would commence in late 2004, and the plant would employ 25 permanent workers.

Mike Schmechel, discussed the proposed Comanche Park project (Black Hills Corp.), located near Broadview, Montana. This project would include 2 coal-fired generation units, each with a capacity of 80 to 100 megawatts. Construction of the first unit is scheduled for mid-2004 and the second unit is scheduled for mid-2005. Again, the sale of electricity is intended primarily for Montana customers. The goal of project developers is to provide electricity for the default supply portfolio but may also provide electricity to Montana cooperatives, including the Flathead Electric Cooperative. Schmechel noted that coal-fired generation units are more labor and capital intensive than natural gas generation but that fuel costs are more stable. Because of the plants' proximity to the Broadview substation, Schmechel does not anticipate problems with transmission.

Joe Dickey, FGS & Associates, described a proposed coal-fired generation project in the Roundup area. Two 350 megawatt units would be built. Construction of the units would begin a year from now; with the first unit scheduled for operation by October 2005 and the second unit scheduled for operation by June 2006. The Bull Mountain coal mine would provide fuel for the projects. Although underground coal is more expensive to mine than surface coal, transportation costs are minimal. In addition, the heat content of the coal is 20% higher than other Montana coal. According to Dickey, electricity supply costs would be 3¢ or less a kilowatt hour. Transmission lines would be connected to the Broadview substation or to the rural electric cooperatives grid. Dickey said that electricity from the proposed projects would enhance the stability of the transmission system. Some electricity from the project would be sold out of state.

Clark Fritz provided a press release that described a joint project of Great Northern Power Development, LP, and Kiewit Mining, Inc. The joint effort plans on constructing one or more 500 megawatt coal-fired generation plants in eastern Montana.

Coal would be supplied by nearby coal mines. According to the press release, each project would take 5 to 7 years to develop and would employ up to 150 workers to operate the combined mine and power plant. Electricity supply costs would be about 3¢ a kilowatt hour. Electricity would be sold to Montana customers as well as to regional customers. The go-ahead for the project may be contingent on the results of the transmission upgrade study being conducted by the Western Area Power Administration. Project developers intend to take advantage of the recent production and tax incentives enacted during the 2001 Legislative Session.

Default Supply Portfolio...Bill Pascoe, Montana Power Company, summarized MPC's proposed default energy supply portfolio that will go into effect July 1, 2002. The default supply load and reserves total 1129 megawatts. Of that amount, 29% will come from new generation in the state, including power from Montana First MegaWatts (NorthWestern Energy), Rock Mountain Power, Thompson River Cogeneration, the Tiber dam, and wind generation; 49% from existing generation, including PPL Montana, the Miltown dam, and qualifying facilities; and 22% from market purchases. MPC has signed a 1-year contract with Duke Energy in North Carolina to bridge any shortfall in new generation. Energy supply above the base load will come from a portion of PPL Montana's production, Montana First MegaWatts, and market purchases. Depending on spot-market prices, Montana First may supply more or less energy above the base load. Beginning July 1, the electricity bill of a residential customer who uses an average of 750 kilowatts a month will increase by about \$10 a month, or by about 20% above current rates. Transmission charges will be slightly lower, but distribution and universal system benefit charges will remain the same.

Committee Reviews Work Plan...Committee staff presented the *Draft Work Plan for the 2001-2002 Interim*. Because of existing and potential "bottlenecks" in the transmission system in Montana and surrounding states, the committee will devote a significant amount of time to the technical and regulatory aspects of transmission, especially as they relate to restructuring and new generation. Sen. Thomas appointed Dave Wheelihan to chair a transmission subcommittee. Other members include Reps. Roy Brown, Steve Gallus, and Alan Olson, and Sens. Don Ryan, Emily Stonington, and Fred Thomas.

Although HB 474, enacted during the last legislative session, extended universal system benefits programs, the committee is required under the original restructuring legislation (SB 390) to evaluate the need for universal system benefits programs and to make recommendations to the next legislature by July 1, 2002. Sen. Thomas appointed a subcommittee to evaluate universal system benefits programs and associated costs. The subcommittee chair is Rep. Tom Dell; other legislative members are Reps. Stan Fisher and Jim Keane and Sens. Alvin Ellis and Walter McNutt. Nonlegislative members include Matt Brainard (Public Service Commission), Doug Hardy (Montana electric cooperatives), Gene Leuwer (low-income customers), and Pat Corcoran (MPC). Committee staff will send a letter of inquiry to persons interested in universal system benefits programs. If you would like to be included in the mailing, please contact Todd Everts at (406) 444-3747 or by email at teverts@mt.gov.

Among other topics, the committee will also look at electrical energy market

structure and competition, review national energy and transmission legislation, track proposed energy generation projects, and evaluate outstanding stranded costs issues.

Other Reports...Several other reports were presented to the committee:

- Pat Corcoran, MPC, reviewed the status of the sale of MPC transmission and distribution property to NorthWestern Energy and the determination of "Tier 2" stranded costs. Almost all of the stranded costs relate to contracts with qualifying facilities. MPC has contracts with QFs for the next 25 or 30 years. MPC is looking at recovering about \$2 billion in stranded costs related to those contracts.
- Dennis Lopach, NorthWestern Energy, said that 80 megawatts of gas-fired electrical energy generation (Montana First MegaWatts) will be available by July 1, 2002, with a second unit coming online by late summer. Additional generation will be available by the summer of 2003. Gas generation facilities are designed to meet peak loads and can be put in operation within 10 minutes.
- Alec Hansen, Montana League of Cities and Towns, talked about savings realized by municipalities and school districts in the MPC service area by aggregating power purchases on the open market.
- Rep. Roy Brown and Sen. Emily Swanson discussed the transmission study being conducted by the Western Area Power Administration.
- Dave Wheelihan reported on the annual meeting of the Montana Electric Cooperatives' Association held in Kalispell in October.
- Todd Everts, committee staff attorney, summarized the status of several lawsuits related to restructuring.

Next Meeting... The next committee meeting is scheduled for Feb. 15; the committee may also meet in January. For more information about the committee or to be put on the committee's mailing list, contact Jeff Martin, Legislative Services Division, at (406) 444-3595 or by e-mail at [jmartin@mt.gov](mailto:jmartin@mt.gov).

## LOCAL GOVERNMENT AND EDUCATION COMMITTEE

Committee Meets in November...The Education and Local Government Committee met in Helena on Nov. 2. The committee heard presentations on local government issues, discussed the public hearings to be held in the spring on the school funding proposal, began work on HJR 41 study resolution, and created a subcommittee.

Committee Hears from Cities and Towns...Alec Hansen, Montana League of Cities and Towns, discussed a number of issues of importance to Montana's municipalities. House Bill 124 is working very well for cities and towns. The legislation represents a true partnership between state and local government and will go a long way in stabilizing local government revenues.

Providing health insurance benefits for employees continues to be a problem for local governments. House Bill 409 provided some relief by exempting increases in a local

government's property tax levy for health insurance benefits from the mill levy limitations imposed by the Legislature in 1999. Local governments are also following very closely the work of the SJR 22 subcommittee on health care costs and health insurance. Hansen said that League members are looking at forming a public agency health trust to help cut administrative costs of providing health insurance and to educate employees and employers on how to keep health care costs down.

In the area of electric utility deregulation, cities have been purchasing power on the open market and have been fairly successful in keeping their rates low. However, recent rate increases may make it cheaper for cities to go back to the Montana Power Company as their energy supplier.

Hansen asked the committee to reconsider a local option tax for cities similar to that proposed in Senate Bill 213 last session. According to Hansen, 47% of the revenue from that bill would have come from nonresidents.

DOR Reports on HB 124...Brad Simshaw and Larry Finch, Department of Revenue, reported on the implementation of HB 124. They explained the entitlement share concept and how the entitlement share is determined for every local government. They also provided data on the entitlement share for every incorporated town and city and every county in the state. As with any of legislation of this magnitude, there are issues that have arisen during implementation that have required solutions. Their report included a letter from the director of the Department of Revenue identifying the issues and the resolution of those issues by the department.

DPHHS Reports on State Assumption...Hank Hudson, Department of Public Health and Human Services, reported on the implementation of Senate Bill 339, state assumption of public assistance. The legislation was requested by the Montana Association of Counties to eliminate the counties' responsibility for welfare financing. The department will submit a plan to each county on how the welfare program will be administered, staffing, hours of operation, etc. The county will review and approve or appeal the plan. The county will also be involved in hiring personnel. Hudson said that implementation is working very well and only a few minor difficulties have been encountered.

Committee members asked Hudson about other issues surrounding welfare. Regarding the increase in caseloads and the resulting 35% cut in FAIM II reserve funds, Hudson said that the department is analyzing why the increase occurred. An initial analysis points to people who recently left welfare and were the last-hired at a job and are now being laid off or are having their work hours reduced, thus forcing them back on welfare. When asked about House Bill 273 that requires the transfer of \$3.4 million of TANF funds to the affordable housing revolving loan account, Hudson said that it is the position of the Martz administration that HB 273 does not specify when the money must be transferred; the money can be transferred next biennium.

The recent reduction in food stamps is the result of the loss of a federal waiver that the state had. The waiver was originally granted until 2003, but the U.S. Department of Agriculture recently informed DPHHS that the waiver was being rescinded. The current farm bill pending before Congress contains some provisions to address this food stamp reduction.

Committee Hears About School Funding...Jeff Hindoién, Public School Funding Advisory Council, reported on the recent meeting of the council. The council's final meeting will be Nov. 30 at which time the council will formulate its final recommendations. The council is currently looking at, among other things, reducing the number of funds that a school district is required to maintain, averaging ANB to address declining enrollments, distributing HB 124 revenue in a way that reduces taxpayer inequities, and equalizing tax effort at the county level. The council will formally present its report to the Education and Local Government Committee on Jan. 11.

The committee then discussed how it will conduct the public hearings across the state. There is enough money in the committee budget to hold four two-day hearings across the state. More hearings could be held if the committee were divided in half with each group holding hearings. The committee requested that someone from the school funding council travel with the committee to present the report and answer questions before public testimony is taken. Sen. Nelson will work with staff to prepare a travel plan for committee discussion on Jan. 11.

Committee Looks at Territory Transfers...The committee began work on HJR 41, the study of school district territory transfers. After reading through and discussing the responses to the survey questions, the committee made the following preliminary decisions:

- The petition to initiate a territory transfer must be signed by 2/3 of the registered voters who reside or own taxable property in the territory proposed for transfer.
- The territory proposed for transfer must be contiguous to the receiving district and include contiguous taxable property.
- The territory may not be located within 3 miles, over the shortest practicable route, of an operating school within the transferring district.
- The transfer will not reduce the taxable value of the transferring district by 25% or more unless the transferring district approves the transfer. Language will also be included to address the issue of nontaxable property.
- The receiving district must approve the transfer. If both districts approve the transfer, then no public hearing is necessary.
- The county superintendent of schools shall make the decision on the transfer.

The Committee will continue its work on HJR 41 at the Jan. 11 meeting. At that time, the Committee will tackle the issue of criteria to guide the county superintendent in approving or disapproving the transfer.

Committee Creates Subcommittee...The committee created the Postsecondary Education Policy and Budget Subcommittee. The subcommittee will be composed of four legislators, two members of the Board of Regents, and a representative from the governor's office. Pam Joehler of the legislative Fiscal Division will staff the subcommittee. Sen. Nelson appointed Reps. Art Peterson and Gary Branae and Sens. Ed Butcher and Don Ryan to serve on the subcommittee. Sen. Nelson will send a letter

to the governor and the Board of Regents asking them to appoint members. The subcommittee will hold its first meeting on Jan. 10.

To Meet in January...The committee will meet on Jan. 11 in Room 137 of the Capitol. The Public School Funding Advisory Council will present its report, and the committee will continue its work on HJR 41.

The Postsecondary Education Policy and Budget Subcommittee will meet on Jan. 10 in Room 137 of the Capitol. For more information about the subcommittee, please contact Pam Joehler, Legislative Fiscal Division, at (406)444-2986 or by e-mail to <pjoehler@mt.gov>.

For more information about the Education and Local Government Committee, please contact Connie Erickson, Legislative Services Division, at (406)444-3064 or by e-mail to <cerickson@mt.gov>. All of the committee's agendas, minutes, and reports are posted on its website at [http://leg.mt.gov/Interim\\_Committees/Education\\_Local\\_Gov/index.htm](http://leg.mt.gov/Interim_Committees/Education_Local_Gov/index.htm).

## LEGISLATIVE FINANCE COMMITTEE

December Meeting Scheduled...The Legislative Finance Committee will meet in Room 102 of the Capitol on Thursday, Dec. 6 at 1:00 p.m. and on Friday, Dec. 7 at 8:00 a.m. An agenda for the meeting is on the Legislative Fiscal Division website at <http://leg.state.us/fiscal/index.htm>. The tentative agenda includes reports or discussions regarding:

- Montana Science and Technology Alliance;
- FAIM Phase II-R;
- HJR 1 - Mental Health Service Subcommittee;
- Board of Investments purchase of public school fund mineral rights;
- higher education issues;
- state bonding program;
- wildfire suppression costs;
- information technology management; and
- reports on interim studies.

Committee staff will present a report that reviews the process for setting internal service fund rates. The report also recommends improving the process in which rates are requested, presented, and approved by the legislature.

SB 162 Subcommittee to Meet in December...The LFC subcommittee created to review the dedication of local government revenue, will meet from 10 a.m. to noon on Dec. 6. The subcommittee will discuss several provisions of law that may be candidates for de-earmarking.

For questions about the LFC meeting, contact Clayton Schenck by e-mail at cschenck@mt.gov or by telephone at (406) 444-2986. For questions about the SB 162 subcommittee, contact Jon Moe at jonmoe@mt.gov or at (406) 444-4581.

## ENVIRONMENTAL QUALITY COUNCIL

Environmental Quality Council. . . The full EQC will meet in Helena on Tuesday, Dec. 11. The EQC will hear a report on the status of the White Pine and Sash Remediation Site in Missoula and an overview on the issues associated with sage grouse management. The EQC subcommittees will meet on Monday, Dec. 10. Subcommittee activities are set out below.

Minutes from previous meetings, Council and subcommittee work plans, agendas, and press releases, may be found on the EQC website at <http://leg.mt.gov/Services/lepo/index.htm>. If you have any questions or would like additional information or to be placed on the EQC interested persons mailing list, contact the EQC office at 444-3742 or mtheisen@mt.gov.

Coal Bed Methane/Water Policy Subcommittee . . . The Coal Bed Methane/Water Policy Subcommittee will meet in Helena on Monday, Dec. 10 at 8 a.m. in Room 102 of the Capitol. Several informative presentations have been scheduled and anyone interested is encouraged to attend.

**Marias River water use permit lawsuit:** A panel of affected parties will discuss the Department of Natural Resource and Conservation's (DNRC) issuance of a beneficial water use permit on the Marias River to the Sunny Brook Colony, Inc. The Montana Department of Fish, Wildlife, and Parks (FWP) is a prior water rights holder on the Marias. FWP acquired a reservation of water rights in the Marias in order to protect biological flow requirements and the aquatic environment. The FWP has determined that 560 cubic feet per second (cfs) were required to protect the river's biological flow requirements and the aquatic environment. However, FWP is limited by statute to a maximum of 50% of the mean annual flow, or 488.5 cfs. DNRC issued the permit allowing the colony to divert any flow above 488.5 cfs. This part of the final order was in accordance with HB 473 (Ch. 268, L. 2001). This legislation amended the Montana Environmental Policy Act to prohibit conditioning permits based on mitigation of problems identified in environmental reviews under the act.

For more information about the subcommittee's water policy activities contact Krista Lee Evans at (406) 444-3957 or by e-mail at klee@mt.gov.

**Coal bed methane:** The coal bed methane portion of the December meeting will be primarily devoted to learning about water produced in association with coal bed natural gas development. The subcommittee will hear presentations about the quality of the water, its effect on soils, and water quality monitoring requirements. Representatives of industry and environmental organizations have been invited to present their

perspectives on management of coal bed natural gas product water. The subcommittee will also learn about permitting and leasing requirements applicable to coal bed natural gas development.

A draft statewide programmatic environmental impact statement (EIS) for Montana is scheduled to be available for public review by the end of 2001. The agencies involved in the development of this document will report to the subcommittee on the status of the EIS. For more information about the subcommittee's coal bed natural gas activities, contact Mary Vandenbosch at (406) 444-5367 or by e-mail at mvandenbosch@mt.gov.

Agency Oversight/MEPA . . . The subcommittee is scheduled to meet in Room 152 of the Capitol on Monday, Dec. 10 at 9:15 a.m.. The draft agenda includes a presentation by environmental agency officials regarding the implementation of the Montana Environmental Policy Act following the 2001 legislative changes to MEPA and a followup discussion of the 1999-2000 EQC MEPA study findings and recommendations. The December meeting will also include a further review of the Fish, Wildlife, and Parks Commission's adoption of a biennial seasonal rule regulating the use of the Big Hole and Beaverhead rivers. The implementation of the Controlled Allocation of Liability Act and orphan share funding by the Department of Environmental Quality is also being reviewed at the December meeting. An explanation of state hazardous material remediation procedures and policies will be provided to the subcommittee.

The EQC web site at:

<http://leg.mt.gov/services/lepo/subcommittees/oversightsub.htm> contains information about the subcommittee, copies of meeting agendas, minutes, and reports or you may contact the subcommittee staff, Larry Mitchell, at 444-1352 or email at lamitchell@mt.gov.

For more information, contact Larry Mitchell (444-1352 or lamitchell@mt.gov)

Energy Policy Subcommittee . . . The EQC Energy Policy Subcommittee will meet in Helena on Monday, December 10 in the State Capitol building in room 137. The Subcommittee will hear reports at its December meeting on the following:

- the status of the energy supply system in Montana and the Pacific Northwest;
- the status on Montana's energy demand, supply, and efficiency;
- the status of the transmission system in Montana and the Pacific Northwest;
- the basics on Montana's Electric Cooperatives;
- the basics of electricity pricing supply and demand;
- the tie between natural gas and electricity;
- an outline of Montana Energy Law Handbook; and
- a draft of benchmark dates and time line for major energy issues and decisions.

Copies of staff memorandums, agendas, minutes, and the *Final Energy Policy Subcommittee Work Plan* can be found at the following web site address: <http://leg.mt.gov/services/lepo/subcommittees/energysub.htm>

For more information contact Todd Everts at (406) 444-3747 or [teverts@mt.gov](mailto:teverts@mt.gov).

## LAW AND JUSTICE INTERIM COMMITTEE

The Law and Justice Interim Committee is scheduled to meet on Thursday and Friday, Dec. 6 and 7, 2001, in Room 137 of the Capitol in Helena. The Thursday meeting will begin at 9 a.m. In the morning, the committee will look at the effects and implications of certain criminal sentencing policies with respect to the mental health status of accused persons or convicted criminals. A series of presentations from various mental health professionals and others is anticipated to consume the morning session.

Thursday afternoon, Warden Jo Acton, Montana Women's Prison, will discuss the various activities at the MWP. Valencia Lane, LSD staff attorney, will summarize statutory requirements for expedited or time-specific court proceedings. Finally, John MacMaster, LSD staff attorney, will present revisions to the *Felony Sentencing Statutes, Analysis Tool and Reference Guide, 2001*, which the committee will review and revise for use during the remainder of the interim and for the 58th Legislature. The committee will recess following the discussion of the guide.

The committee will reconvene at 8:30 a.m. on Friday, Dec. 7. The meeting will begin with regular reports from the Judiciary (Chief Justice Karla Gray), the Department of Justice (Attorney General Mike McGrath), and the Department of Corrections (Bill Slaughter, Director). Following these reports, the committee will revisit the study plan for House Joint Resolution No. 39, adopted on Oct. 12, to refine goals and objectives for the remainder of the study.

Sen. Jon Tester has also asked to address the committee on the matter of "frivolous lawsuits", particularly how such lawsuits can affect a defendant. He intends to seek the committee's guidance on possible means of discouraging such lawsuits and may seek further investigation into the matters involved.

For more information about the LJIC or the meeting scheduled for Dec. 6 and 7, call Dave Bohyer at (406) 444-3064 or send e-mail to [dbohyer@mt.gov](mailto:dbohyer@mt.gov). The committee's website address is [http://leg.mt.gov/Interim\\_Committees/Law\\_and\\_Justice/index.htm](http://leg.mt.gov/Interim_Committees/Law_and_Justice/index.htm).

## PUBLIC SCHOOL FUNDING ADVISORY COUNCIL

Council Continues Its Work...The Public School Funding Advisory Council met on Nov. 1 to continue its work on House Bill 625. Steve Johnson, chair, presented a report from the working group on school fund structure. The working group recommended

that the current fund structure of 20 plus funds be modified to provide more flexibility to school districts while maintaining accountability. The recommendation would replace 15 existing funds with five funds and leave the other funds intact. The new funds would include:

- ? a general operating fund;
- ? a capital projects fund;
- ? a state and private programs fund;
- ? a federal programs fund; and
- ? a community education fund.

Amy Carlson, the Office of Budget and Program Planning, presented the council with some options for redistributing the HB 124 block grants. Some of the options include:

- ? increasing the per-ANB entitlements;
- ? creating a program of providing state assistance for voter approved capital projects funded with mill levies;
- ? expanding current adult education grants and expanding the criteria to ensure that small districts qualify for funding; and
- ? combining the retirement fund with the general fund.

Carlson and Jim Standaert of the Legislative Fiscal Division presented a report on equalizing district general fund BASE budgets at the county level. The report concluded that countywide equalization has improved taxpayer equity relative to the BASE funding of schools.

Standaert presented several options for simplifying K-12 transportation:

- make the state and county share of transportation spending a percentage of approved costs;
- set the state rate at a fixed amount per mile;
- base state and county mileage rates on bus capacity only, regardless of ridership;
- set the amount of the state and county share of transportation costs at a fixed amount per ANB;
- retain the current system but abolish county share and increase state share by amount of county share.

The council discussed the advantages and disadvantages of each option.

Council to Make Decisions...Following the reports, the council began sifting through all of the information that had been presented to it over the last few months in order to make some decisions as to its final recommendations. Areas where there seems to be some agreement among Council members include reducing the number of funds that a school district is required to maintain, averaging ANB to address declining enrollments, and distributing HB 124 revenues in a way that reduces taxpayer inequities. The council will make its final recommendations on Nov. 30. The final report will be presented to the Education and Local Government Committee on Jan. 11.

The Council's minutes and reports may be found at [www2.mt.gov/budget/Ed\\_Committee](http://www2.mt.gov/budget/Ed_Committee). You may also contact Amy Carlson, OBPP, at (406) 444-3616 or Jeff Hindoi, Governor's Office, at (406) 444-3111.

## ECONOMIC AFFAIRS COMMITTEE

The Economic Affairs Committee met after the submission deadline for articles. Coverage of the Nov. 30 meeting of the committee will be included in the January issue of **THE INTERIM**. In the meantime, please contact Gordy Higgins at 444-3064, or by e-mail at [gohiggins@mt.gov](mailto:gohiggins@mt.gov), for information on the committee's most recent activities and topics for future meetings. The next meeting of the committee will be February 15, 2002, in the State Capitol.

### SUBCOMMITTEE ON HEALTH CARE AND HEALTH INSURANCE

The SJR 22 Subcommittee on Health Care and Health Insurance met Oct. 29 to begin gathering information on the subject of uninsured Montanans.

Policy Options... David Kendall, Senior Fellow, Progressive Policy Institute, presented an overview of health care tax policy and a historical perspective of how employer-sponsored insurance became so widespread. Kendall spoke briefly about design features that policymakers should consider when recommending tax credits for the purchase of health insurance.

Tax policy changes are just one of a number of options available to state lawmakers. Expanding existing public programs is another arena where the subcommittee may venture. For example, some states provide state assistance for purchasing employer-sponsored insurance or allow an eligible population to buy into public health insurance programs. The subcommittee will identify target populations within the uninsured population and assess the overall cost and effectiveness of these strategies.

Purchasing Pools...The SJR 22 study resolution directs the subcommittee to review purchasing pools as a strategy to increase affordable access to health insurance. Montana law allows for the creation of health insurance purchasing pools. However, it is difficult for small businesses and insurance carriers in Montana to offer a health package that is acceptable to all parties. Difficulties have arisen because of strict risk rating requirements proposed by the pool participants and because benefit plan marketing duties have been assigned to pool agents. Although both pool participants and the insurance industry believe that purchasing pools could be a useful option in Montana, there are a number of design issues that must be considered before any decrease in the rate of the uninsured will be achieved. Two critical features of an effective purchasing pool concept are length of time a participant must remain in the purchasing pool and the ability of

insurers to appropriately rate the risk of pool participants.

Rising Health Care Costs...The subcommittee also reviewed health care cost trends and the underlying cost factors. Research indicates that health care costs have consistently increased faster than general inflation over the past several years. Although some of the underlying cost factors have been always been present, new importance is given to a couple of factors. The first, and most commonly cited factor is prescription drug costs. An increase in highly specialized drug research and production, along with direct marketing to consumers, suggests higher consumer expectations and greater utilization. Couple drug costs with improvements in medical technology and an aging population, and one begins to see the heightened pressure being placed on the health care system.

Proceedings of the subcommittee's November 29, 2001, meeting will be discussed in the January issue of **THE INTERIM**.

The next subcommittee meeting is scheduled for Feb. 14 in Helena. Please contact Gordy Higgins at (406) 444-3064, or by e-mail at [gohiggins@mt.gov](mailto:gohiggins@mt.gov) for details. Additional information on subcommittee activities can be found at the following Internet address: [http://leg.mt.gov/Interim\\_Committees/Economic\\_Affairs/index.htm](http://leg.mt.gov/Interim_Committees/Economic_Affairs/index.htm).

## LEGISLATIVE AUDIT COMMITTEE

The Legislative Audit Committee met Oct. 18. Legislative Audit Division (LAD) staff presented the following reports:

### Performance Audits

On-Premises Liquor Licensing Process, Customer Service Center Department of Revenue, Gambling Control Division Department of Justice (01P-06)

Establishments that serve alcohol on-site constitute a majority of the state's licensing workload. The licensing process involves both the Department of Revenue (DOR) and the Department of Justice, Gambling Control Division (GCD). DOR is statutorily responsible for administering the Montana Alcoholic Beverage code, while GCD is statutorily responsible for conducting any investigations related to alcoholic beverages. The audit noted it takes an average of 193 days to review and approve on-premises liquor applications. The majority of this timeframe reflects DOR activities. The current process requires that applicants submit duplicate paperwork to the DOR and GCD. The duplicate review negatively impacts businesses by increasing business costs, causing lost revenues, or both.

The audit made 11 recommendations to improve the licensing process. Some major recommendations made included:

- eliminating in-state residency requirements as a condition of licensure;
- establishing an expedited process for certain licensing requests;
- strengthening management and staffing controls over the process; and
- improving the liquor lottery drawing process.

DOR and GCD are assessing the feasibility of consolidating the process within one agency.

Geographic Information System (GIS) Implementation and Development in Montana Federal, State, Local and Private Sector Entities (01P-07)

GIS is an information technology that allows data to be integrated based on geographic features. In Montana, no single state or local entity is responsible for monitoring or managing GIS use or application within the state. The Montana Geographic Information Council (Council), created by executive order of the governor in 1997, was established to provide policy level direction.

The federal government, in cooperation with state, regional, local, and private sector interests, has identified seven framework data layers for the nation. Framework layers follow themes identifying geographic features such as elevation, rivers and streams, property ownership, roads and highways, and government boundaries.

The audit included the following conclusions and recommendations:

- Existing organizations and oversight processes effectively use communication and coordination to develop GIS capabilities. Montana has benefitted by using the spirit of cooperation approach to focus on specific projects and encourage the use of GIS.
- To increase state and local agency participation, increase access to training, assure timely designation of custodians, and improve data standardization, the Council should establish a formal framework layer project planning review process.
- To assure a more pro-active role regarding resolution of issues, the Council should establish clear milestones and deadlines, document consensus, and, if necessary, develop recommendations for the governor and legislature.
- To meet the needs of GIS development and implementation, the Council should determine the amount of administrative support required, evaluate alternatives, and prepare a recommendation to the governor.

State Agency Land Exchanges Department of Natural Resources and Conservation, Montana Department of Transportation, Department of Fish, Wildlife and Parks, and Montana University System (01P-05)

The process of trading or swapping lands is referred to as an exchange. The performance audit focused on processes used by state agencies to exchange land including completing land exchanges, valuing land to be exchanged, and complying with applicable laws. LAD staff compiled and reviewed land exchange information at four entities: the Department of Natural Resources and Conservation, the Montana Department of Transportation, the

Department of Fish, Wildlife and Parks, and the Montana University System. This audit was initiated at the request of the Legislative Audit Committee.

State agency land exchange processes are comparable to one another and to other states and the federal government. There are differences in specific procedures, but in general, the processes are comparable. In addition, state agency land exchange processes appear to provide benefits to the state and the public by meeting the missions of the agencies involved. The report contains recommendations for improving state land management including:

Department of Natural Resources and Conservation:

- use cash equalization payments as an option in trust land exchanges; and
- establish procedures to implement land-banking concepts as part of trust land management.

Montana Department of Transportation:

- clarify procedures regarding documentation of land values for land exchanges; and
- document the environmental decision-making process for all land exchanges.

Purchasing Card Program, Eleven State Agencies and the Two University Units (01P-03)

This performance audit presents information on the use of state purchasing cards and controls over cards to ensure proper use. A random sample of 114 of 1,365 cards used by 11 state agencies and the 2 university units showed purchases made with the cards were reasonable. Some agencies had a better system of controls than other agencies. LAD sent letters to each agency visited informing them of the audit findings. The control environment identified by LAD, and changes in procedures made by agencies, are being used by financial compliance auditors to establish the level of control testing and detail testing needed in conducting biennial audits of each agency.

## IS Audits

System for the Enforcement and Recovery of Child Support (SEARCHS), Department of Public Health and Human Services (01DP-06)

This report provides information regarding application controls over the department's SEARCHS system, and access and change controls over the related processing environment. It contains nine recommendations for improving controls over the SEARCHS information system environment.

Montana Lottery Security, Department of Commerce through 6/30/01 and Department of Administration effective 7/1/01 (01DP-07)

This report provides information regarding the security controls over the Montana Lottery operations. The report concludes controls are in place, which ensures the overall security of Montana Lottery operations.



## Status Reports

Natural Resource Damage Settlement Funds for the Upper Clark Fork River Basin, Department of Justice and Department of Environmental Quality (01SP-58) (Status Report Performance Memo)

This is a status report on the use of Natural Resource Damage Settlement Funds for the Upper Clark Fork River Basin. The funds are administered by the Department of Justice and the Department of Environmental Quality

The report updates information contained in previous responses to legislative requests. The report contains no recommendations and does not require any action by the departments involved.

POINTS Status Report, Department of Revenue

At its June 26, 2001, meeting, the committee requested that LAD compile information on and provide an independent assessment of the status of the Department of Revenue's Process Oriented Integrated System (POINTS).

Next Meeting...The next Legislative Audit Committee meeting is tentatively scheduled for Dec. 17 and 18 in Helena.

## DEAR MASON AND ROBERTS

Rules. We get hit with them early in life. Don't run in the halls. Raise your hand if you have something to say. No chewing gum in class.

The Montana Legislature, like most institutions, has its own rules governing operations and procedures. A working knowledge of these rules is an essential component of being an effective legislator.

To provide some continuing education on legislative rules, this is the first of a monthly column that will feature questions and answers about the Joint Rules of the Montana Legislature as well as House and Senate Rules. Because this material tends to be pretty dry, we have tried to be creative by presenting the questions and responses in a light-hearted manner. Dear Abby, move over!

**Dear Mason and Roberts:** My friends and I want to protect the gophers that live behind the bowling alley in our town--especially our favorite, the chubby one who sometimes does a dance at the golf course. We have heard that the Montana Legislature is going to be making some new gopher laws. Does the Legislature have to listen to what we want to say before they pass a new law?

Your friend,  
Rodney Gopherfield

**Dear Rodney:** I assume that what you really want to know is whether a hearing before a standing committee is required for an introduced bill not just whether or not you can holler at your legislator over his coffee and platter of brains and eggs at the local café. By all means you and your friends can have your say (although you would probably have to protect all the gophers, not just the dancing ones).

Under Article II, section 8, of the Montana Constitution, the public has the right to expect a reasonable opportunity to participate in the operation of governmental agencies. Public hearings help to fulfill this constitutional requirement. In the House, a hearing is required before a standing committee for an introduced bill. (See House Rules 30-40(2)(a) and 30-60.) The Senate rules imply, but do not specifically require, a hearing. (See Senate Rules 30-80 and 30-90.)

**Dear Mason and Roberts:** My mother always says that if you can't say something nice, don't say anything at all. If I decide to ignore my mother and say something about a bill that isn't very nice, will I have to say it in front of the legislator who wants the bill?

Sharon O. Pinion

**Dear Sharon:** Sorry, but you will have to face the sponsor if the bill is being considered by the House, and you can take your chances but will probably have to face the sponsor if the bill is being considered by the Senate. If you send your comments in writing, you had better make sure that your mother reads them first!

But more to the point, House Rule 30-50 provides that a standing or select committee "may not take up referred legislation unless the sponsor or one of the cosponsors is present or unless the sponsor has given written consent". Because this issue isn't addressed in either the Senate rules or Mason's *Manual of Legislative Procedure*, there is no requirement for a sponsor to be present for a hearing. However, it is customary in the Senate that the sponsor be present.

**Dear Mason and Roberts:** I like to spend my time reading the bulletin board at the steakhouse while we wait to get a table for the prime rib special on Friday nights. I admit that I have some trouble concentrating with that smell in the air when I am hungry, but somehow I never seem to see notices about the time and place where I can attend a legislative meeting about the laws that the Legislature is talking about. Don't they have to tell the public what they are doing and when they are having meetings?

Meady M. Rare

**Dear Meady:** Of course the Legislature has to tell you what they are doing, but they don't always have time to put up posters on the bulletin boards at all the steakhouses in the state announcing the bills that they will talk about at each committee meeting. Assuming that you are actually interested in something other than whether to order the soup or salad with your prime rib, here's what we can do for you:

House Rule 30-40 requires that a committee give public notice "reasonably calculated to give actual notice to interested persons of the time, place, and subject matter of regular and special meetings." A committee is encouraged to provide at least 3 legislative days' notice to committee members and the general public. However, the rule

provides that a meeting may be held "upon notice appropriate to the circumstances".

Senate Rule 30-90 provides that "[n]otice of a committee hearing must be made by posting the date, time, and subject of the hearing in a conspicuous public place not less than 3 legislative days in advance of the hearing." However, the 3-day notice requirement does not apply to hearings scheduled: (1) before the 3rd legislative day; (2) less than 7 legislative days before the transmittal deadline applicable to the subject of the hearing; or (3) to consider confirmation of a gubernatorial appointment received less than 10 legislative days before the last scheduled day of the session. When a hearing is scheduled with less than 3 days' notice, the committee chair must use all practical means to disseminate notice of the hearing to the public.

**Dear Mason and Roberts:** I asked my legislator to introduce a bill to require my neighbor to paint her house a different color and to hang matching miniblinds in the windows. The neighbor sold the house, and the new owners have put up some siding and have hung new curtains, so now I don't need the new law. Can my legislator change her mind and stop the bill even though it has already been introduced?

Martha Stewart

**Dear Martha:** If your legislator changes her mind about sponsoring a bill, she can't actually withdraw the bill, but there is a way to pull the bill out of the ground before it grows roots and develops into a weed that might take over the garden. The pesky rule in question is Joint Rule 10-130, which prohibits a bill from being withdrawn once it is introduced.

As a practical matter, a sponsor who no longer wishes to advance a bill could request the committee, at the time of the bill's hearing, to table the bill (this does not require placemats, name cards, or figuring out which fork to use first). During the 2001 session, some sponsors simply asked committee chairs not to schedule hearings on those bills so that the public would not be inconvenienced. Because the House Rules require a hearing, this practice is a technical violation of the rule. The same practice in the Senate would not be a technical violation because the Senate does not have a rule requiring a hearing on all introduced bills.

*Do you have rule questions that you would like us to cover in this column? If so, please send them to Lois Menzies, Legislative Services Division, PO Box 201706, Helena, MT 59620-1706 or lomenzies@mt.gov.*

## BACK PAGE

### Medicaid 101--The Basics

By Lois Steinbeck, Senior Fiscal Analyst  
Legislative Fiscal Division

#### INTRODUCTION

Medicaid is a federal and state program that pays for health care services for low-income aged, blind or disabled persons, dependent and minor children, and some parents of dependent children. It was adopted under the Social Security Act of 1965 and is authorized in Title 53 of the Montana Code Annotated.

Medicaid is one of the two major nationwide health care programs supported by the federal government; Medicare is the other. Medicaid and Medicare are sometimes confused. In general, Medicare is a health care program for all citizens and it is funded entirely by federal funds less co-payments by eligible persons. Medicaid is a shared financial responsibility between a state and the federal government and provides health care services for low-income persons of all ages who meet certain financial and categorical eligibility criteria.

#### WHY MEDICAID IS IMPORTANT TO STATE LAWMAKERS

The Medicaid services appropriation for the 2003 biennium is \$1.1 billion in total, which includes \$263 million state general fund and \$13 million of county funds. Medicaid services account for 19% of all appropriations in House Bill 2 for the 2003 biennium.

Medicaid provides a significant source of funding for medical services in Montana. Between 10% and 12% of all Montanans are eligible for services each year and in the mid-1990s, Medicaid paid for about 40% of all births in Montana.

#### BASIC FEDERAL MEDICAID CRITERIA

Once a state opts to participate in Medicaid, it must abide by federal criteria because the federal government pays a substantial portion of the cost. All states administer a Medicaid program.

Federal criteria establish certain mandatory services and categories of eligibility that a state must include in its state Medicaid plan. States may offer optional services and may have optional eligibility requirements. Examples of mandatory services are inpatient hospital, physician, nursing home, and well-child services. Optional services include prescription drugs, mental health services, and outpatient therapies.

Some optional services may substitute lower cost care for or prevent placement in more expensive mandatory services.

Table 1 shows the services funded by the Montana Medicaid program. The Montana program includes most optional services.

<b>Table 1</b> <b>Montana Medicaid Plan</b> <b>Mandatory and Optional Services</b>	
Mandatory Services	Optional Services
Inpatient Hospital	Prescribed Drugs
Outpatient Hospital	Dental/Denturist Services
Physician	Audiology/Hearing Aids
Nurse Midwife	Eyeglasses/Optometric
Nurse Practitioner	Community Mental Health
Laboratory and X-ray	Licensed Prof. Counselors
Nursing Facility Care for 21 Yrs and Older	Psychology
Family Planning	Social Work
Home Health	Freestanding Dialysis Clinic
Rural Health Clinics and Federal Qualified Clinics	Diagnostic Clinic
Medical and Surgical Dental Services	Targeted Case Manager
Transportation	Mid-Level Practitioners
	Ambulatory Surgical Centers
	Institution for the Mentally Retarded
	Durable Medical Equipment
	Medical Supplies
	Speech, Physical and Occu- pational Therapies
	Personal Assistance
	Podiatry
	Nurse Specialist
	Hospice
	Home Infusion Therapy
	Home Dialysis Attendant

There are certain other criteria that a state must meet if it administers a Medicaid program. Some of the basic criteria are:

- all services must be available statewide;
- service recipients must be able to choose a provider (freedom of choice);
- reimbursement levels must be sufficient to attract providers;
- services must be medically necessary;
- co-payments are subject to federal limits; and
- once a person meets eligibility criteria, he or she is entitled to receive services.

If a state wants to implement a policy that does not conform to federal Medicaid requirements it must receive a permission from the federal government to do so. In other words, the federal government must "waive" the requirement. For example, Montana received a federal waiver of freedom of choice in order to require all Medicaid recipients to access mental health care through a single provider when the statewide contract for mental health managed care was implemented.

The federal share of Medicaid costs may not be more under a waiver than without the waiver. States are liable for the federal share of costs if a waiver program is not cost neutral. This requirement may be an impediment to creative health care policies that a state may wish to consider.

#### SHARE OF STATE MEDICAID COSTS

States must share in the cost of Medicaid. In general, administrative costs (staff, rent, operating expenses) are shared equally between state and federal governments. The state share of benefit or services costs is based on per capita state income compared to national per capita income. Recently, the Montana share of Medicaid service costs has been about 30% of the total.

There are some federal restrictions on sources of matching funds. States may not get more than 60% of the nonfederal share from county or local governments and taxes levied specifically to match federal Medicaid funds must be broad-based.

#### ELIGIBILITY FOR MEDICAID

There are over 35 types of Medicaid eligibility. In Montana, eligibility is based on income and assets tests as well as categorical criteria. This summary highlights two broad types of eligibility:

- Supplemental Security Income (SSI) for the aged, blind, or disabled; and
- minor and dependent children and some parents.

Able-bodied, healthy, childless adults are not eligible for Medicaid, regardless of income or assets.

The federal government establishes asset limits at \$2,000 for an individual and \$3,000 for a couple seeking to establish eligibility for a monthly SSI payment (and automatic Medicaid eligibility). Examples of assets are savings and checking accounts, promissory notes, trusts, stocks and bonds. States may waive or disregard assets test. Only 5 states, including Montana, impose asset limits in determination of Medicaid eligibility.

The federal government also establishes income eligibility limits. States may disregard countable income above the federal limit thereby increasing financial eligibility, but Montana does not do so. Income limits are based on the federal poverty index, which is updated annually. The 2001 federal poverty level for a family of four is \$17,650 a year.

In order to be eligible for SSI type eligibility, an individual generally can have countable income no greater than about 75% of the federal poverty level and countable income for a couple can be no greater than about 80%. In the dependent and minor child type eligibility there are different income limits by age of child, which limits range from 40% to 100% of the poverty level. Pregnant women may have countable income up to 133 percent of the federal poverty level. Parents with dependent children can receive Medicaid if countable income is less than 40% of the poverty level.

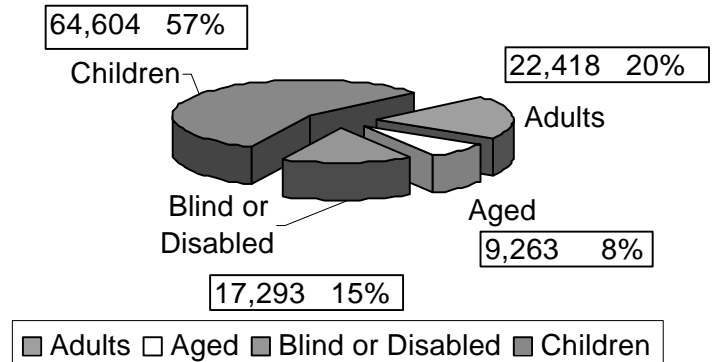
#### ELIGIBILITY AND SERVICE COSTS OF THE MONTANA MEDICAID PROGRAM

The total number of persons eligible for Medicaid varies by month depending on changes in a person's assets and income. The highest number of Montanans eligible for Medicaid in any one month peaked at 77,500 during fiscal year 1995, but fell to a low of 66,041 in one month during fiscal year 1998. The decline was due to cash assistance caseload reductions associated with welfare reform. The number of eligible persons has begun to rise again, reaching 73,504 in October 2001. Increases are due to rising numbers of cash assistance recipients and of persons eligible for SSI due to recent court decisions.

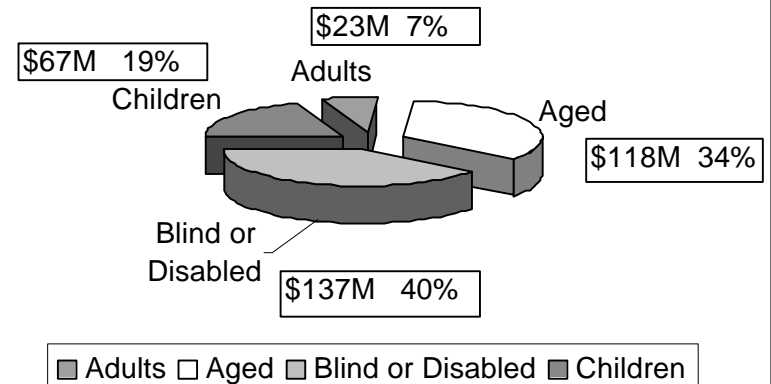
The number of persons eligible in any given month is less than the total annual number of unduplicated recipients. For example, there were 133,678 persons eligible for Medicaid in fiscal year 1999. Because persons can "bounce" in and out of Medicaid eligibility due to changes in income, the total number eligible in any given month is fewer than the number eligible over an entire year.

Chart 1 shows the total number of persons eligible for services by major type of eligibility in fiscal year 1999, while Chart 2 shows expenditures by major type of eligibility. The total number of eligible persons in Chart 1 is an unduplicated count over the entire fiscal year. Total costs in Chart 2 do not include state institution cost reimbursements that are later included in Chart 4.

**Chart 1**  
**FY99 Medicaid Eligibility**



**Chart 2**  
**FY 99 Medicaid Costs by Eligibility**



Although low-income children make up the largest share of eligible persons (57%), they incurred only 19% of the costs. In contrast, aged recipients accounted for 8 % of the eligible persons, yet incurred 34 % of the total cost. Disabled or blind recipients were 15% of the number eligible and accounted for 40% of the costs. Low-income adults were 20% of the recipient population and comprised 7% of the costs.

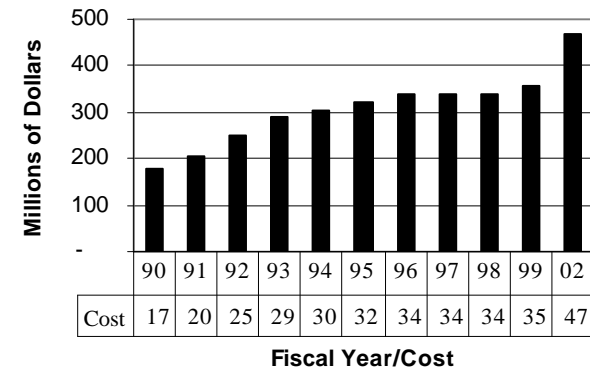
Table 2 shows the average annual cost to provide services to one person by type of eligibility during fiscal year 1999. The average cost to serve an aged recipient was about \$13,000 compared with the average cost of about \$1,040 to serve a low-income child. As the Montana population ages, Medicaid costs will increase disproportionately, because elderly persons are the highest cost category.

**Table 2**  
**Average Annual Cost**  
**of Medicaid Services**  
**By Type of Eligibility - FY99**

Eligibility Type	Annual Cost
Aged	\$ 12,696
Blind or Disabled	7,871
Low-income Adult	1,044
Low-income Child	1,036
Average	\$3,033

Medicaid expenditures used in the following discussion exclude Indian health services and some costs for the developmentally disabled and persons dually eligible for Medicare. State Medicaid costs totaled \$355.4 million in fiscal year 1999, the most recently completed year for Medicaid cost data. Billing lags, as with any health insurance program, and payment lags due to determination of eligibility, which can be lengthy for some SSI applicants who are disabled, result in cost completion delay. Chart 3 shows service costs from fiscal year 1990 through 1999, compared to fiscal 2002 appropriations.

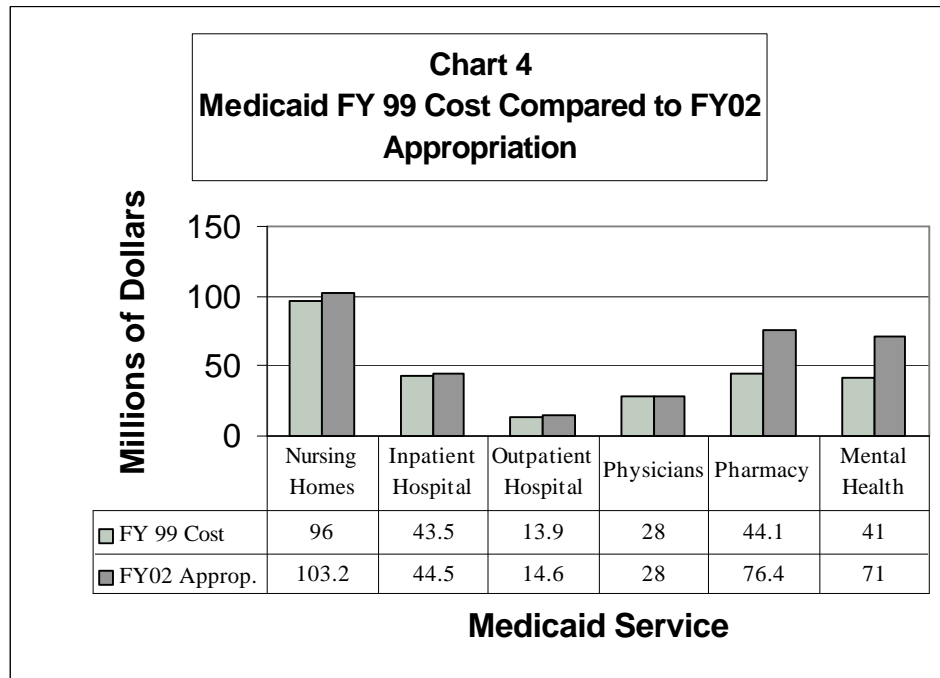
**Chart 3**  
**Medicaid Cost and Appropriation**  
**FY 90 to FY02 (in millions)**



Actual Medicaid expenditures have risen from \$178.6 million in fiscal year 1990 to \$355.4 million in fiscal year 1999, or about 8% a year. The annual rate of change measured through fiscal year 2002 appropriations increased to about 8.5%. Fiscal year 2002 costs jumped from fiscal year 1999 levels due, in large part, to the county intergovernmental transfer programs (about \$12 million) that plowed funds into provider rate increases.

Medicaid costs have increased for several reasons. As with other health care programs, advances in technology and pharmaceuticals have fueled some of the increase. Provider rate increases authorized by the legislature have also contributed to higher costs. As noted previously, there has been an increase in the number of persons eligible for SSI due to recent court decisions.

Chart 4 compares the cost of selected services for fiscal year 1999 and fiscal year 2002 appropriations. Not surprisingly, nursing home services are the highest cost service and cost increases are due solely to provider rate increases as the number of services has declined slightly. Pharmaceutical costs were the most rapidly increasing cost component between fiscal year 1999 and fiscal 2002. Mental health costs have also increased.



#### FISCAL YEAR 2002 MEDICAID EXPENDITURE PROJECTIONS HIGHER THAN APPROPRIATIONS

The Department of Public Health and Human Services (DPHHS) administers Medicaid services. The most recent budget status report (October 2001) prepared by the department estimates a \$4.5 million general fund shortfall for fiscal year 2002. About \$3 million of the cost over-run is in primary care Medicaid services (hospital, physician, and pharmacy services) and about \$1.5 million is in Medicaid mental health services and higher than expected population at the Montana State Hospital. The cost overruns are partially offset by savings in the Medicaid nursing home program due to lower than anticipated caseloads.

If available funds are not sufficient to provide medical assistance for all eligible persons, state law allows the department to set priorities to limit, reduce, or otherwise curtail the amount, scope, or duration of the medical services made available under the Montana Medicaid program, (53-6-101(11), MCA). State law also requires state agencies to live within their appropriation (17-8-103, MCA) and to develop a plan to maintain expenditures within appropriations if funds are transferred from the second year of the biennium to cover expenditures in the first year of the biennium (17-7-301, MCA).

#### WHAT COST REDUCTIONS ARE BEING IMPLEMENTED?

DPHHS has prepared a list of immediate and potential reductions for mental health services programs and is considering what actions it will take to reduce Medicaid expenditures in other areas. The mental health service reductions that will be or have been implemented include:

- delaying rate increases for mental health providers;
- requiring prior approval of outpatient therapy services in excess of 24 sessions in a fiscal year;
- discontinuing payment for community based psychiatric rehabilitation and support services or outpatient therapy sessions on the same day that a consumer also receives comprehensive school and community treatment or a full day of day treatment;
- limiting intensive case management services for youth in therapeutic group or foster care to three months;
- defining more precisely the scope of services expected from residential treatment centers and work with in-state centers to assure the expected scope of service is in place. Only youth with service needs that exceed the scope of services will be approved for out-of-state facilities. If necessary a waiting list for placement into in-state facilities will be established.
- restricting provision of care coordination to community mental health centers; and
- eliminating room and board payments to therapeutic group and foster care providers as a Medicaid benefit and contracting to pay room and board for a limited number of youth who have no other means to pay.

Mental health service reductions that DPHHS has identified if mental health service costs continue to increase are:

- eliminating outpatient therapy provided by psychologists, social workers, and licensed professional counselors for children who do not have serious emotional disturbance and adults who do not have severe and disabling mental illness; and
- eliminating comprehensive school and community treatment service.



## INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED,  
ALL ROOM DESIGNATIONS ARE IN THE CAPITOL BLDG.

### DECEMBER

December 3 and 4, Revenue and Transportation Committee

December 6, SB 162 Subcommittee (LFC), Room 102, 10 a.m.-noon

December 6, Legislative Finance Committee, Room 102, 1 p.m.

December 7, Legislative Finance Committee, Room 102, 8 a.m.

December 6 and 7, Law and Justice Committee, Room 137

December 10, Environmental Quality Council subcommittees

December 11, Environmental Quality Council

December 18-19, Legislative Audit Committee, Room 102

### JANUARY

State-Tribal Relations Committee, January 9, 2002, Room 102

Postsecondary Education Policy and Budget Subcommittee, January 10, Room 137

Education and Local Government Committee, January 11, Room 137